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SOME QUESTIONS ABOUT DEVOLVING “WELFARE”

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Background

In the closing stages of the Scottish referendum campaign when the polls suggested the outcome was very close, the UK political leaders jointly declared

“We now pledge to strengthen further the powers of the Scottish Parliament, in particular in the areas of fiscal responsibility **and social security**”.

The day after the result (55% NO 45% YES) David Cameron announced that this commitment would be proceeded with rapidly and take in other parts of the UK.

Lord Smith of Kelvin is handling the Scottish discussions. That commission will hold cross-party talks and civic engagement to produce recommendations for further devolution by November 30 2014. This will be informed by a UK Government command paper, to be published by October 31 2014, and will result in the publication of draft clauses by January 25 2015. William Hague, the Leader of the House of Commons, has been asked by the Prime Minister to chair a committee to explore devolution in England.

This is clearly intended to be a very rapid process but the problem is that very little detailed work has so far been done on the issues.

Social Security is huge and complex

The social security system in the UK consists of three main elements:

- Insurance benefits: the basic pension paid on the basis of contributions is by far the biggest element. Others include contributory based Jobseeker's Allowance (JSA), Bereavement Benefit and contributory based Employment and Support Allowance (ESA).
- Non-contributory benefits paid without a means-test: mainly Attendance Allowance, Mobility Allowance, and Personal Independence Payments (PIP).
- Means-tested benefits – income tested JSA and ESA, Housing Benefit, free school meals, exemption from health charges, Working Tax Credit, Child Tax Credit, Child Benefit. Universal Credit being rolled out (but currently only received by 11,000 people mainly in the NW of England).

This system is huge. It takes a quarter of public expenditure more than the NHS or education. It employs hundreds of thousands of people to administer it. It maintains the living standards of a large minority of the population at any one time, but everyone at some time. It is the base of solidarity. It is the glue of the UK – makes us the same, differentiates us from other countries. It is above all the safety net, the main vehicle that redistributes resources. It achieves much more redistribution than direct taxes, though it is funded by contributions and taxes.

Social security independence comes at a price

Since 1922 Northern Ireland has had devolved responsibility for social security and until recently has maintained parity with the rest of the UK, copying legislation and benefit levels¹. The aspiration of the Unionist governments was that they would eventually be re-integrated into the Union. They never were, but the British Government were prepared to pay the bill as long as parity was maintained. Parity was never exact - it was a slogan – Northern Ireland did not have rates or water rates or council tax and council tax benefit never existed; prices of food and fuel was often higher so the purchasing power of benefits was lower. Now since the power sharing executive parity has stalled – the Welfare Reform Act 2012 has not been accepted, which means that Universal Credit, the bedroom tax, the benefit cap and PIP (Personal Independence Payments) don't apply in Northern Ireland (and are unlikely ever to apply). As a punishment HM Treasury² are deducting £112m this year from NI vote for NOT implementing welfare reform. This figure will rise to over £200m next year. Other services in NI are already being cut to make good the difference. What will happen next is an interesting question. Can Northern Ireland continue with the pre Ian Duncan Smith social security system at its own expense?

Devolution of social security in Scotland

We should recognise that Scotland has already seen some devolution: Council Tax Benefit is now "Council Tax Reduction" in Scotland. The Social Fund is now replaced in Scotland by the Scottish Welfare Fund³. In both cases, English local authorities were left to their own devices, but the Scottish Government instituted a national scheme, backed up by extra resources⁴. In Scotland prescriptions and eye tests, which in England have been the subject of means tests now are not in Scotland. . The Scottish Government has also used schedule 5 of the Scotland Act 1998 to make discretionary housing payments available and has announced funding measures which effectively abolish the bedroom tax.

What is going to happen now? What might devolving social security mean? Very little work has been done in answer to that question as revealed by the recent House of Commons Library review⁵.

IPPR had considered this issue in a pamphlet⁶ written before the referendum. They suggested then that there was no case for devolving retirement pension but there was a strong case for devolving the work programme because it is better organised locally, and housing benefit and possibly also attendance allowances – on the grounds that both interact with other policies – social housing and caring services. Whether housing benefit and attendance allowance would be enough to meet the aspirations of the Scotland post referendum is doubtful.

¹¹ There have been exceptions: in the 1950s Stormont cut the level of family allowances for large families – a deeply sectarian move.

² In a letter from Danny Alexander, a Scottish MP!

³ With 40% extra funds, grants instead of loans available to anyone whether on benefit or not, sanctioned or not. The council tax has been maintained without the 10% cut.

⁴ <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/70878.aspx>.

⁵ House of Commons Library (2014) Scotland Devolution proposals
<http://www.parliament.uk/business/publications/research/briefing-papers/SN06987/scotland-devolution-proposals>

⁶ http://www.ippr.org/assets/media/images/media/files/publication/2014/03/Devo-more-and-welfare_Mar2014_11993.pdf

The Scottish Government had an expert working group before the referendum that proposed some quite radical proposal for social security⁷. Among their proposals were

- Abolish the cap on Annually Managed Expenditure (AME)
- Abolish of the “bedroom tax”
- Scrap the current system of sanctions
- Replace the failing Work Capability Assessment with a more appropriate arrangement
- Re-establishing the link between benefit uprating and the cost of living
- Ensure all public sector employers pay the living wage

This list resonates with the decisions that Northern Ireland have made at their own expense.

In response to these ideas the Child Poverty Action Group suggested that Scotland should also consider

- A commitment to restoring child benefit and tax credits to at least the level it would have had it been uprated in line with the Retail Price Index (RPI).
- A commitment to scrap the benefits cap
- Overturn recent changes to the past presence test for disability benefits
- Undo changes to the habitual residence test for job seeking households
- Remove the time limit on contributory employment support allowance (cESA)
- Commit to invest to minimise error in the administration of social security benefits.
- Also the proposed changes to Carers Allowance needed further consideration
- Clarify as to how entitlement to tax credits will operate
- The need for further clarification in relation to Social Security Allowance.

How far are the parties to the Lord Smith negotiations prepared to go and to accept?

The big questions are:

1. Will the basic retirement pension and the other contributory benefits be devolved?
The contributory condition still has some validity – accrued rights.
2. Will the non-contributory benefits be devolved?
3. Will the means-tested benefits be devolved?

Let us assume that answer is yes to all of these. Then a number of issues arise.

1. Will Scotland pay for them? Can they pay for them – now or in the longer term?
2. Will there be any agreement to attempt to maintain parity in benefit levels?
3. If not what happens about across border entitlements. If Scotland decided to tackle child poverty by increasing benefits more than England could families move across the border to benefit (and vice versa)?
4. The reassessments of PIP and ESA are deeply unpopular, so are elements of the Work Programme. Universal Credit is still a fiasco and would be seriously undermined if housing benefit became a devolved element. What happens if Scotland decides not to implement them? PIP is deliberately designed to save money by taking benefits from very disabled people. If Scotland decides not to take PIP from its citizens will Scotland pay?

⁷The Scottish Government (2014) Expert Working Group on Welfare
<http://www.scotland.gov.uk/Topics/People/welfare/reform/expertworkinggrouponwelfare>

If devolution results in only part of social security being transferred, then additional issues arise. The most likely scenario will be that means-tested benefits are devolved. This would avoid the issues of accrued contributory rights. But the means-tested system is the safety net. It is effectively the key to parity and solidarity. Scotland may be able to afford to pay higher child tax credits than England but Wales and Northern Ireland certainly cannot. Can Yorkshire?

Devolved social security does not necessarily imply a continuation of parity. It surely cannot because the right to vary things nationally is too essential to the notion of devolution. Scotland has made it clear that it does not want to follow Tory social security policy. So what does this DevoMax commitment mean? Watch this space.